

108TH CONGRESS  
1ST SESSION

# H. R. 361

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## AN ACT

To designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.



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To designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Sports Agent Respon-  
3 sibility and Trust Act”.

4 **SEC. 2. DEFINITIONS.**

5       As used in this Act, the following definitions apply:

6           (1) **AGENCY CONTRACT.**—The term “agency  
7 contract” means an oral or written agreement in  
8 which a student athlete authorizes a person to nego-  
9 tiate or solicit on behalf of the student athlete a pro-  
10 fessional sports contract or an endorsement contract.

11          (2) **ATHLETE AGENT.**—The term “athlete  
12 agent” means an individual who enters into an agen-  
13 cy contract with a student athlete, or directly or in-  
14 directly recruits or solicits a student athlete to enter  
15 into an agency contract, and does not include a  
16 spouse, parent, sibling, grandparent, or guardian of  
17 such student athlete, any legal counsel for purposes  
18 other than that of representative agency, or an indi-  
19 vidual acting solely on behalf of a professional sports  
20 team or professional sports organization.

21          (3) **ATHLETIC DIRECTOR.**—The term “athletic  
22 director” means an individual responsible for admin-  
23 istering the athletic program of an educational insti-  
24 tution or, in the case that such program is adminis-  
25 tered separately, the athletic program for male stu-

1 dents or the athletic program for female students, as  
2 appropriate.

3 (4) COMMISSION.—The term “Commission”  
4 means the Federal Trade Commission.

5 (5) ENDORSEMENT CONTRACT.—The term “en-  
6 dorsement contract” means an agreement under  
7 which a student athlete is employed or receives con-  
8 sideration for the use by the other party of that in-  
9 dividual’s person, name, image, or likeness in the  
10 promotion of any product, service, or event.

11 (6) INTERCOLLEGIATE SPORT.—The term  
12 “intercollegiate sport” means a sport played at the  
13 collegiate level for which eligibility requirements for  
14 participation by a student athlete are established by  
15 a national association for the promotion or regula-  
16 tion of college athletics.

17 (7) PROFESSIONAL SPORTS CONTRACT.—The  
18 term “professional sports contract” means an agree-  
19 ment under which an individual is employed, or  
20 agrees to render services, as a player on a profes-  
21 sional sports team, with a professional sports organi-  
22 zation, or as a professional athlete.

23 (8) STATE.—The term “State” includes a State  
24 of the United States, the District of Columbia, Puer-  
25 to Rico, the United States Virgin Islands, or any

1 territory or insular possession subject to the jurisdic-  
2 tion of the United States.

3 (9) STUDENT ATHLETE.—The term “student  
4 athlete” means an individual who engages in, is eli-  
5 gible to engage in, or may be eligible in the future  
6 to engage in, any intercollegiate sport. An individual  
7 who is permanently ineligible to participate in a par-  
8 ticular intercollegiate sport is not a student athlete  
9 for purposes of that sport.

10 **SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS**  
11 **AND PRACTICES IN CONNECTION WITH THE**  
12 **CONTACT BETWEEN AN ATHLETE AGENT AND**  
13 **A STUDENT ATHLETE.**

14 (a) CONDUCT PROHIBITED.—It is unlawful for an  
15 athlete agent to—

16 (1) directly or indirectly recruit or solicit a stu-  
17 dent athlete to enter into an agency contract, by—

18 (A) giving any false or misleading informa-  
19 tion or making a false promise or representa-  
20 tion; or

21 (B) providing anything of value to a stu-  
22 dent athlete or anyone associated with the stu-  
23 dent athlete before the student athlete enters  
24 into an agency contract, including any consider-  
25 ation in the form of a loan, or acting in the ca-

1           pacity of a guarantor or co-guarantor for any  
2           debt;

3           (2) enter into an agency contract with a stu-  
4           dent athlete without providing the student athlete  
5           with the disclosure document described in subsection  
6           (b); or

7           (3) predate or postdate an agency contract.

8           (b) REQUIRED DISCLOSURE BY ATHLETE AGENTS  
9           TO STUDENT ATHLETES.—

10           (1) IN GENERAL.—In conjunction with the en-  
11           tering into of an agency contract, an athlete agent  
12           shall provide to the student athlete, or, if the stu-  
13           dent athlete is under the age of 18, to such student  
14           athlete's parent or legal guardian, a disclosure docu-  
15           ment that meets the requirements of this subsection.  
16           Such disclosure document is separate from and in  
17           addition to any disclosure which may be required  
18           under State law.

19           (2) SIGNATURE OF STUDENT ATHLETE.—The  
20           disclosure document must be signed by the student  
21           athlete, or, if the student athlete is under the age of  
22           18, by such student athlete's parent or legal guard-  
23           ian, prior to entering into the agency contract.

24           (3) REQUIRED LANGUAGE.—The disclosure doc-  
25           ument must contain, in close proximity to the signa-

1        ture of the student athlete, or, if the student athlete  
2        is under the age of 18, the signature of such student  
3        athlete’s parent or legal guardian, a conspicuous no-  
4        tice in boldface type stating: “Warning to Student  
5        Athlete: If you agree orally or in writing to be rep-  
6        resented by an agent now or in the future you may  
7        lose your eligibility to compete as a student athlete  
8        in your sport. Within 72 hours after entering into  
9        this contract or before the next athletic event in  
10       which you are eligible to participate, whichever oc-  
11       curs first, both you and the agent by whom you are  
12       agreeing to be represented must notify the athletic  
13       director of the educational institution at which you  
14       are enrolled, or other individual responsible for ath-  
15       letic programs at such educational institution, that  
16       you have entered into an agency contract.”.

17    **SEC. 4. ENFORCEMENT.**

18        (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A  
19       violation of this Act shall be treated as a violation of a  
20       rule defining an unfair or deceptive act or practice pre-  
21       scribed under section 18(a)(1)(B) of the Federal Trade  
22       Commission Act (15 U.S.C. 57a(a)(1)(B)).

23        (b) ACTIONS BY THE COMMISSION.—The Commis-  
24       sion shall enforce this Act in the same manner, by the  
25       same means, and with the same jurisdiction, powers, and

1 duties as though all applicable terms and provisions of the  
2 Federal Trade Commission Act (15 U.S.C. 41 et seq.)  
3 were incorporated into and made a part of this Act.

4 **SEC. 5. ACTIONS BY STATES.**

5 (a) IN GENERAL.—

6 (1) CIVIL ACTIONS.—In any case in which the  
7 attorney general of a State has reason to believe  
8 that an interest of the residents of that State has  
9 been or is threatened or adversely affected by the  
10 engagement of any athlete agent in a practice that  
11 violates section 3 of this Act, the State may bring  
12 a civil action on behalf of the residents of the State  
13 in a district court of the United States of appro-  
14 priate jurisdiction to—

15 (A) enjoin that practice;

16 (B) enforce compliance with this Act; or

17 (C) obtain damage, restitution, or other  
18 compensation on behalf of residents of the  
19 State.

20 (2) NOTICE.—

21 (A) IN GENERAL.—Before filing an action  
22 under paragraph (1), the attorney general of  
23 the State involved shall provide to the  
24 Commission—

25 (i) written notice of that action; and

1 (ii) a copy of the complaint for that  
2 action.

3 (B) EXEMPTION.—Subparagraph (A) shall  
4 not apply with respect to the filing of an action  
5 by an attorney general of a State under this  
6 subsection, if the attorney general determines  
7 that it is not feasible to provide the notice de-  
8 scribed in that subparagraph before filing of the  
9 action. In such case, the attorney general of a  
10 State shall provide notice and a copy of the  
11 complaint to the Commission at the same time  
12 as the attorney general files the action.

13 (b) INTERVENTION.—

14 (1) IN GENERAL.—On receiving notice under  
15 subsection (a)(2), the Commission shall have the  
16 right to intervene in the action that is the subject  
17 of the notice.

18 (2) EFFECT OF INTERVENTION.—If the Com-  
19 mission intervenes in an action under subsection (a),  
20 it shall have the right—

21 (A) to be heard with respect to any matter  
22 that arises in that action; and

23 (B) to file a petition for appeal.

24 (c) CONSTRUCTION.—For purposes of bringing any  
25 civil action under subsection (a), nothing in this title shall

1 be construed to prevent an attorney general of a State  
 2 from exercising the powers conferred on the attorney gen-  
 3 eral by the laws of that State to—

4 (1) conduct investigations;

5 (2) administer oaths or affirmations; or

6 (3) compel the attendance of witnesses or the  
 7 production of documentary and other evidence.

8 (d) ACTIONS BY THE COMMISSION.—In any case in  
 9 which an action is instituted by or on behalf of the Com-  
 10 mission for a violation of section 3, no State may, during  
 11 the pendency of that action, institute an action under sub-  
 12 section (a) against any defendant named in the complaint  
 13 in that action.

14 (e) VENUE.—Any action brought under subsection  
 15 (a) may be brought in the district court of the United  
 16 States that meets applicable requirements relating to  
 17 venue under section 1391 of title 28, United States Code.

18 (f) SERVICE OF PROCESS.—In an action brought  
 19 under subsection (a), process may be served in any district  
 20 in which the defendant—

21 (1) is an inhabitant; or

22 (2) may be found.

23 **SEC. 6. PROTECTION OF EDUCATIONAL INSTITUTION.**

24 (a) NOTICE REQUIRED.—Within 72 hours after en-  
 25 tering into an agency contract or before the next athletic

1 event in which the student athlete may participate, which-  
2 ever occurs first, the athlete agent and the student athlete  
3 shall each inform the athletic director of the educational  
4 institution at which the student athlete is enrolled, or  
5 other individual responsible for athletic programs at such  
6 educational institution, that the student athlete has en-  
7 tered into an agency contract, and the athlete agent shall  
8 provide the athletic director with notice in writing of such  
9 a contract.

10 (b) CIVIL REMEDY.—

11 (1) IN GENERAL.—An educational institution  
12 has a right of action against an athlete agent for  
13 damages caused by a violation of this Act.

14 (2) DAMAGES.—Damages of an educational in-  
15 stitution may include and are limited to actual losses  
16 and expenses incurred because, as a result of the  
17 conduct of the athlete agent, the educational institu-  
18 tion was injured by a violation of this Act or was pe-  
19 nalized, disqualified, or suspended from participation  
20 in athletics by a national association for the pro-  
21 motion and regulation of athletics, by an athletic  
22 conference, or by reasonable self-imposed discipli-  
23 nary action taken to mitigate actions likely to be im-  
24 posed by such an association or conference.

1           (3) COSTS AND ATTORNEYS FEES.—In an ac-  
2           tion taken under this section, the court may award  
3           to the prevailing party costs and reasonable attor-  
4           neys fees.

5           (4) EFFECT ON OTHER RIGHTS, REMEDIES AND  
6           DEFENSES.—This section does not restrict the  
7           rights, remedies, or defenses of any person under  
8           law or equity.

9   **SEC. 7. LIMITATION.**

10          Nothing in this Act shall be construed to prohibit an  
11          individual from seeking any remedies available under ex-  
12          isting Federal or State law or equity.

13   **SEC. 8. SENSE OF CONGRESS.**

14          It is the sense of Congress that States should enact  
15          the Uniform Athlete Agents Act of 2000 drafted by the  
16          National Conference of Commissioners on Uniform State  
17          Laws, to protect student athletes and the integrity of ama-  
18          teur sports from unscrupulous sports agents. In par-  
19          ticular, it is the sense of Congress that States should enact  
20          the provisions relating to the registration of sports agents,  
21          the required form of contract, the right of the student ath-  
22          lete to cancel an agency contract, the disclosure require-  
23          ments relating to record maintenance, reporting, renewal,

- 1 notice, warning, and security, and the provisions for reci-
- 2 procuity among the States.

Passed the House of Representatives June 4, 2003.

Attest:

*Clerk.*